

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X      **NO. 14-CV-5951(KPF)**  
NESTOR ALMONTE,

Plaintiff,

-against-

**DECLARATION OF**  
**STUART A. WEINBERGER**

437 MORRIS PARK, LLC d/b/a F&T  
MANAGEMENT COP., 1195 SHERMAN AVE.,  
LLC, SHERMAN MANAGEMENT CO., d/b/a  
SHERMAN MANAGEMENT ASSOCIATES, LLC,  
CHANINA KLAHR, KALMAN TABAK, and  
ABRAHAM FINKELSTEIN,

Defendants.

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Stuart A. Weinberger hereby declares under penalty of perjury pursuant to 28 U.S.C. §  
1746 as follows:

1. I am a partner in the law firm of Goldberg and Weinberger LLP, counsel of record for Defendants 437 Morris Park, LLC, 1195 Sherman Ave., LLC, Chanina Klahr, Kalman Tabak and Abraham Finkelstein (“Defendants”).
2. This Declaration is based upon my own personal knowledge and upon information and belief, the source being documents and records maintained by my firm in defending this action. As such, I am fully familiar with this file and submit this Declaration, along with the accompanying Memorandum of Law, in support of Defendants’ motion for partial summary judgment pursuant to Fed. R. Civ. P. 56.
3. There are no genuine issues of fact upon which Plaintiff can support his claims raised in Counts IV, V, and VIII of the First Amended Complaint, and as such Defendants are entitled to summary judgment pursuant to Fed.R.Civ.P. 56 on those claims.

4. I attached hereto a true and correct copy of the following exhibits for the Court's consideration:
- a. Plaintiffs' Complaint filed July 31, 2014;
  - b. Plaintiffs' First Amended Complaint filed September 24, 2014;
  - c. Defendants' Answer to the First Amended Complaint, filed October 27, 2014;
  - d. Minimum Wage Order for the Building Services Industry promulgated by the New York State Commissioner of Labor effective July 24, 2009;
  - e. Deposition transcript of Plaintiff Nestor Almonte;
  - f. Deposition transcript of Defendant Chanina Klahr;
  - g. Deposition transcript of Defendant Kalman Tabak; and
  - h. Deposition transcript of Defendant Abraham Finkelstein.
5. Submitted contemporaneously with this Declaration and the above-listed exhibits, I submit Defendants' statement pursuant to Local Civil Rule 56.1 and a memorandum of law arguing why Defendants' motion should be granted.

**WHEREFORE**, it is respectfully requested that this Court grant Defendants' motion for partial summary judgment, dismiss Counts IV, V, and VIII of the First Amended Complaint, and grant Defendants such other and further relief that to the Court seems just and proper.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 7, 2015.

/s/ Stuart Weinberger  
Stuart A. Weinberger